

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1377-JLH

C.A. No. 22-1378-JLH

[PROPOSED¹] VERDICT FORM

Instructions: When answering the following questions and completing this Verdict Form, please follow the directions provided and follow the Jury Instructions that you have been given. Your answer to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in the Jury Instructions. Please refer to the Jury Instructions if you are unsure about the meaning of usage of any legal term that appears in the questions below.

As used herein:

1. “Apple” refers to Plaintiff Apple Inc.;
2. “Masimo” refers to Defendants Masimo Corporation and Sound United, LLC;
3. The “D’279 Patent” refers to U.S. Patent No. D883,279;
4. The “D’842 Patent” refers to U.S. Patent No. D947,842;
5. The “D’131 Patent” refers to U.S. Patent No. D735,131;
6. The “’783 Patent” refers to U.S. Patent No. 10,627,783;

¹ <<APL: Blue text >> in chevrons identifies Apple’s proposed language.
{ {MAS: Green text } } in curly brackets identifies Masimo’s and Sound United’s proposed language.

7. The “’054 Patent” refers to U.S. Patent No. 10,987,054; and
8. The “’483 Patent” refers to U.S. Patent No. 11,474,483.

QUESTION 1:

For each of the following patent claims and products, did Apple prove by a preponderance of the evidence that Masimo infringed the claim?

The claim of the D'279 Patent

Product(s)	YES (For Apple)	NO (For Masimo)
<p>{{MAS: Original Design (Masimo W1, Freedom, Health Module)}}}</p> <p><<APL: Masimo W1, Freedom, and Health Module (Original Design) >></p>		
<p>{{MAS: Wave Design (Masimo W1, Freedom, Health Module)}}}</p> <p><<APL: Masimo W1, Freedom, and Health Module (Wave / Redesign) >></p>		

The claim of the D'842 Patent

Product(s)	YES (For Apple)	NO (For Masimo)
<p>{{MAS: Original Design (Masimo W1, Freedom, Health Module)}}}</p> <p><<APL: Masimo W1, Freedom, and Health Module (Original Design) >></p>		
<p>{{MAS: Wave Design (Masimo W1, Freedom, Health Module)}}}</p> <p><<APL: Masimo W1, Freedom, and Health Module (Wave / Redesign) >></p>		

The claim of the D'131 Patent

Product(s)	YES (For Apple)	NO (For Masimo)
Masimo {{MAS: Original }} Charger		

Claim 16 of the '783 Patent

Product(s)	YES (For Apple)	NO (For Masimo)
Masimo W1 (Original and {{MAS: Wave }} <<APL: Wave / Redesign>>)		
Masimo Freedom		

Claim 13 of the '483 Patent

Product(s)	YES (For Apple)	NO (For Masimo)
Masimo W1 (Original and {{MAS: Wave }} <<APL: Wave / Redesign>>)		
Masimo Freedom		

Claim 1 of the '054 Patent

Product(s)	YES (For Apple)	NO (For Masimo)
Masimo W1 (Original and {{MAS: Wave }} <<APL: Wave / Redesign>>)		
Masimo Freedom		

QUESTION 2:

For each of the following claims, did Masimo prove by clear and convincing evidence that the claim is invalid for obviousness?

Patent	YES (For Masimo)	NO (For Apple)
Claim 16 of the '783 Patent		
Claim 13 of the '483 Patent		
Claim 1 of the '054 Patent		

QUESTION 3:

For each of the following claims, did Masimo prove by clear and convincing evidence that the claim is invalid for lack of ornamentality?

Patent	YES (For Masimo)	NO (For Apple)
The claim of the D'279 Patent		
The claim of the D'842 Patent		

Answer Questions 4, 5, and 6 only if you:

- Answered “Yes” for ANY of the claims in Question 1;

AND

- Answered “No” for those SAME CLAIMS in Questions 2 and 3, if applicable.

Otherwise, skip and DO NOT answer Questions 4, 5, and 6, and instead please proceed directly to the final page of this Verdict Form and sign and date that page.

QUESTION 4:

Do you award Apple \$250 as a statutory remedy for Masimo's infringement to date of any of Apple's Design Patents?

YES (For Apple)	NO (For Masimo)

QUESTION 5:

Did Apple prove by a preponderance of the evidence that Masimo should pay damages of \$250 for infringement to date of any of Apple's Utility Patents?²

YES (For Apple)	NO (For Masimo)

QUESTION 6:

Did Apple prove by a preponderance of the evidence that Masimo's infringement was willful?³

YES (For Apple)	NO (For Masimo)

² Apple agrees that if the jury answers YES to Questions 5 and 6, i.e., awards \$250 for design patent infringement and \$250 for utility patent infringement, then the Court will reduce the jury award from \$500 to \$250. Masimo is not making Question 6 conditional on answering NO to Question 5 based on that agreement. Masimo reserves all rights with respect to its argument that Apple had and has no damages claim and none of the issues should have been tried to a jury.

³ Masimo preserves its objection that willfulness should not go to the jury.

You have now reached the end of this verdict form and you should review it to ensure that it entirely reflects your unanimous determinations. The Foreperson should then sign the verdict form in the space below and notify the Court Security Officer that you have reached a verdict. The Foreperson should retain possession of the verdict form and will bring it to the courtroom with the jury.

Signed: _____

Dated: _____